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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration Number: 2105217

For the mark: "420" (words, letters and/or stylized form)

Date registered: October 14, 1997

12-06-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #77

420 Gear, Inc. PETITIONER vs.

John Marvin Rowland RESPONDENT

**PETITION TO CANCEL REGISTRATION**

The Petitioner is: 420 Gear, Inc., a corporation within the State of Maryland, whose address is P.O. Box 420, Barnesville, Maryland 20838.

To the best of the Petitioner's knowledge, the name and address of the current owner of the registration is John Marvin Rowland, 1906 N. Towner Street, Santa Ana, California 92706.

The Petitioner believes that it is or will be damaged by the above-identified registration and it thereby petitions to cancel same for the reasons set forth herein.

**The grounds for cancellation are as follows:**

1. The Petitioner is the applicant for the mark "420 Gear Hemp Clothes for the Future" (words, letters and stylized form) Serial Number 76/162050, filed on November 9, 2000.
2. The Petitioner's application has been refused by the examining attorney on the basis of likelihood of confusion with the Respondents mark "420". The Petition responded to this refusal with the argument that "420" is generic, but the refusal was maintained.
3. "420" is a generic. "420" is a slang word the use of hemp or marijuana. The term is used in the form of 4:20 and 4/20. The term "420" with regard to such slang has been in existence since at least the early 1970s. An internet search on [www.google.com](http://www.google.com) using "420" as a search term yields thousands of web sites which reference "420" as slang for hemp and marijuana. "420" has been consistently used as generic slang for hemp and marijuana from the 1970s through the present date. The web site for the magazine entitled High Times, [www.hightimes.com](http://www.hightimes.com), contains an article regarding the origins of the slang term "420". A copy of this article is attached as Exhibit A. Therefore, the Petitioner alleges that the Registrant's registered mark does not function to identify the Registrant's goods nor distinguish them from goods offered by others.

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4. The Respondent is the owner of Registered Trademark Number 2105217, "420". Upon the Petitioner's information and belief from the products presently being offered for sale on the Respondent's web site ([www.420inc.com](http://www.420inc.com)), the Respondent is selling clothing with the mark "420" affixed, with several of the products referencing the generic meaning of "420" as described in the above-mentioned High Times article, i.e. "420 always on time", "420 on time", "420 Bakers" (bakers being slang for marijuana use), and "420 support your local pipehitters union" (pipehitters being slang for marijuana use). A copy of the printout of the Respondent's web site is attached as Exhibit B. As such, the Petitioner alleges that the Respondent is using the mark "420" in its generic context.

5. The Petitioner is likely to be damaged by the existing registration of the generic term, in that the existence of the registration is the basis of the refusal of the Petitioner's application, and that it tends to impair the Petitioner's legal right to the use of "420" on clothing. The Petitioner believes that if the Respondent's mark is declared generic and is cancelled, then its trademark application will likely be granted if it disclaims "420" and "gear", as the refusal based upon likelihood of confusion with the Respondent's mark would be moot. Further, the Petition has received several cease and desist notices from the Respondent, in which the Respondent threatens legal action against the Petitioner based upon its registered mark "420".

6. On information and belief, the Petitioner alleges that the Registrant's registration was obtained fraudulently in that the formal application papers filed by the Respondent, under oath pursuant to 18 USC 1001, state that to the best of the Registrant's knowledge and belief no other person, firm, corporation or association as the right to use "420" in commerce. Said statement was false because the Respondent knew or should have known that the term "420" was widely used and known, and induced the United States Patent and Trademark Office to grant said registration. Reasonably relying upon the truth of said false statements, the United States Patent and Trademark Office did register the Respondent's mark. Further, the Petitioner has been damaged by said registration, in that its own application for registration of the mark "420 Gear Hemp Clothes for the Future" has been refused, and because the Petitioner's continued and legal use of said mark is being and will be impaired by the continued registration of the Respondent's mark.

**WHEREFORE**, the Petitioner prays that Registration Number 2105217 be cancelled immediately, and that this Petition for Cancellation be sustained in favor of the Petitioner, with all costs and legal fees awarded, if appropriate, pursuant to the Federal Rules of Civil Procedure and the Rules of the PTO and the TTAB.

By: M. Beth C.

Date: 12/10/02

MARY BETH CIOCCO, L.L.C.

By: Mary Beth Ciocco

Attorney for the Petitioner 420 Gear, Inc.

22255 Center Ridge Road, Suite 106

Rocky River, Ohio 44116

(440) 333-5700

(440) 333-1519 Fax

## EXHIBIT A

# HIGH TIMES It's time for a change.

CLICK HERE TO START SURFING FOR A CAUSE

HOME

HEADSHOP

NEWS

BUZZ

STONED ZONE

GROW

/DRUG TEST

ADVERTISE

## HEADLINES

- Growing in Humboldt County
- Welfare Recipients to Get Drug Test
- 'NY Times' Takes Hit On Marijuana Booklet
- Military May Ease Its War on Drugs
- Oxford Tells Patients Where to Stick Their Pot
- Headlines Archive



SEARCH HIGH TIMES

GO

420.com

MAGAZINE

- Current Issue
- HT Columnists
- HT Editors
- History of HT
- FAQ
- Submissions
- Legal Disclaimer
- Subscription Info
- Contact

Blueberry Bud

HEADSHOP

- HT Back Issues
- HT Clothing
- CD's and Videos
- Books
- Fun Stuff



LATEST EVENTS

Check out the official HIGH TIMES events calendar.

NEWSLETTER

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## STONED ZONE

Our online lounge makes your lava lamp obsolete. Check out HIGH TIMES VIDEO, High on the Air radio, and other stony diversions.

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### STONER SMART, OR STONER STUPID?

Our editor-in-chief weighs in on the origins of 420, and its lessons for responsible cannabis users.

by Steven Hager

HTV: Watch Steven Hager explain 420 on ABC Television

Do you know what 420 means? Several times over the past few years, HIGH TIMES has attributed "420" to a code used by the San Rafael police department. However, the department has always denied this and I've come to the conclusion they are telling the truth. I was recently contacted by a group known as the "Valdos," who claim to have originated 420 in San Rafael in 1971. The group began meeting every day at 4:20 PM after school and eventually began to use 420 as a code for marijuana so they could talk about pot in front of parents and teachers.



If this is true, why did 420 become so popular and spread so quickly around the world?

One reason is because San Rafael is the home to the Grateful Dead and 420 spread for many years within the Deadhead community before it appeared on the Hemp 100 in HIGH TIMES. Once it appeared in HIGH TIMES, however, the expression spread farther and faster than ever.

But why have so many cannabis users embraced the 420 concept?

I believe 420 is a ritualization of cannabis use that holds deep meaning for our subculture. It also points us in a direction for the responsible use of cannabis. Before one can understand the difference between responsible and irresponsible use of cannabis, one must come to terms with the fact there are really two cannabis cultures in America, smart stoners and stupid stoners.

The stupid stoners wake and bake on exam days. They think being high is an end in itself and strive to be stoned as often as possible. When a stupid stoner shows up at your house, they usually feel it's their duty to compulsively decimate whatever stash you have immediately and save nothing for later. I'm sure we all know a few of these people. The stupid stoners are the people Cheech and Chong made fun of when they created the most widely accepted stereotype of a pothead.

The smart stoners, on the other hand, are the ones who use cannabis as a creative tool to enhance their lives. They know cannabis can be an asset if used intelligently. Bob Marley, Willie Nelson, Louis Armstrong, Ken Kesey, and Stephen Gaskin are among the many cultural icons that fall into the smart stoner category.

But what does all this have to do with 420?

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First, it means it's better to wait to start smoking pot until 4:20 PM—unless, of course, you have a medical reason for starting sooner. The people who roll out of bed and immediately start smoking, and continue smoking throughout the day, don't get as high as the people who wait until 4:20. The late afternoon is the time to step back and review the day's events. It's the time to brainstorm. Cannabis, sunsets and brainstorms just seem to naturally go together. The people who use cannabis sparingly get more impact than those who use it continuously. The more you smoke, the less high you get. Smoke less, and you get higher. This has always been my experience.

Second, 420 is a model for how cannabis should be portrayed to children, which is the most important issue as far as many prohibitionists are concerned. We have to convince these people the use of cannabis by children will not go up after legalization. We have to convince them we are not interested in recruiting their children to join our cannabis society.

Ever since the Partnership for a Drug-Free America began putting ads on television targeting the use of cannabis by children, more kids have been using marijuana. Obviously, the more you talk about marijuana in front of children, the more curious they are going to be about it. Telling them that it's bad is not going to be much of a deterrent. In fact, many kids just naturally enjoy the outlaw thrill of breaking rules set by adults. Right now, it's easier for kids to buy marijuana than it is for them to buy a six-pack of beer because the cannabis is sold out on the streets, while the beer is sold in licensed and regulated outlets.

The solution is not to put more negative advertising on television, but to stop talking about pot in front of children. All that's needed to accomplish this is for the adults to establish a code for cannabis, one that the children don't understand.

We also have to ritualize the use of cannabis and turn it into a rite of passage. That way, when our teenagers reach the proper age, they can be inducted into adulthood by being awarded with the keys to the cannabis code.

#### And what is the "right age?"

That varies considerably. I like the standard set by Stephen Gaskin in his book *Cannabis Spirituality*. "...there's a ceremonial place," writes Gaskin, "when a teenager takes up as much space as a grownup, eats as much food as a grownup and works as much as a grownup. They participate in creating the adult community vibe. It isn't fair at that point to treat them as children. I think some teenagers can be damaged by being excluded from important ceremonies."

Stupid stoners may feel part of the hemp revolution, but they are, in fact, part of the problem. If we want to convince the straight world cannabis is not a dangerous plant, we must use the plant wisely, not irresponsibly. We have to be stoner smart, not stoner stupid. So, which side of the coin do you want to be on? The same side as Bob Marley, Louis Armstrong and Willie Nelson? Or do you want to be stoner stupid?

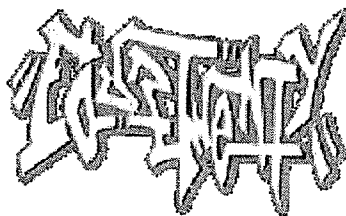
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## **EXHIBIT B**

420 Girls

Pic of  
the Month



Contact Us

Employment  
Opportunities

## More Than A Brand ... A State of Mind.

Home

Sunglasses

Men's Shirts

Welded Tees

Printed Tees

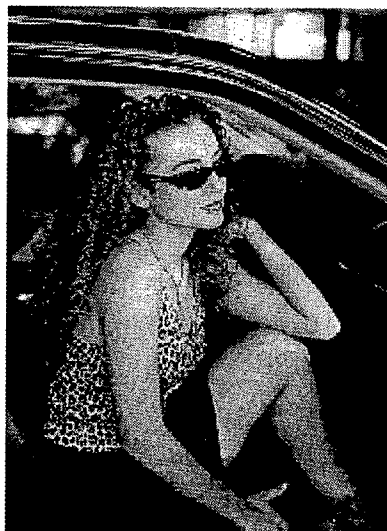
Accessories:

Wallets

Stickers

Skate Decks

420 Links



### *You Know What Time It Is...*

Welcome to the Official Web Site of **420 Inc.**, the *only* federally trademark user of the **420** name. Beware of immitators, and accept no substitutes!!

Our site is designed with your lifestyle in mind, offering the latest in **420 Fashion**, our full line of **420 Eyewear**, and even the same skateboards abused by **Team 420**. We've also got you covered on the music front, with sound clips from and links to some of our favorite local **420 Bands**. You can also submit photos that capture you and your friends in all of your **420** glory, so check out our **Pic Of The Month** page. You could upgrade your wardrobe by winning some Free Stuff!!

Okay, so we've also got pictures of lovely (and uniquely talented) **420 Girls**, too, but we know you're here to load up on stickers, right?

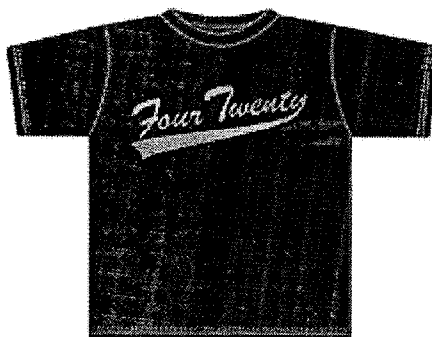
Thanks for dropping in. Stay and hang a while....

© 420 Inc.

FEDERALLY TRADEMARKED CLASS ON

FEDERALLY TRADEMARKED CLASS 25



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Welded Tee - Linticular Refl

Code: **WT-01**Price: **\$20.00**Quantity in Basket: *none*[Add One To Basket](#)

Welded Tee - 2 Color Weld

Code: **WT-02**Price: **\$20.00**Quantity in Basket: *none*[Add One To Basket](#)

Black Welded Tee - Chrome

Code: **WT-03**Price: **\$20.00**Quantity in Basket: *none*[Add One To Basket](#)



Black Welded Tee - Color C  
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Logo  
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Black Welded Tee - 2 Color  
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Navy Blue Welded Tee - Silv  
Orange Glitter  
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Price: **\$20.00**



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Black Welded Tee - 2 Color  
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Grey Welded Tee - 2 Color  
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Price: **\$20.00**  
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Navy Blue Welded Tee - 2 C

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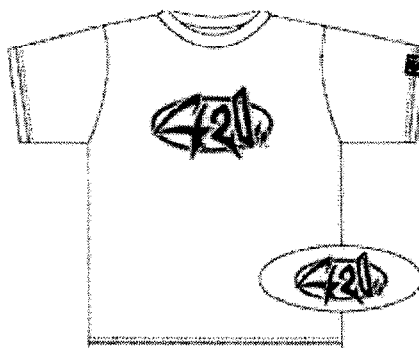
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Mens - Welded Tees  
Mens - Printed Tees  
Sunglasses  
Wallets  
Caps  
Skateboard Decks  
Stickers  
Mens - Dickies Workshirts



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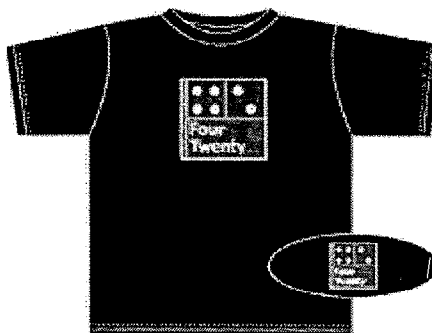
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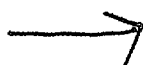
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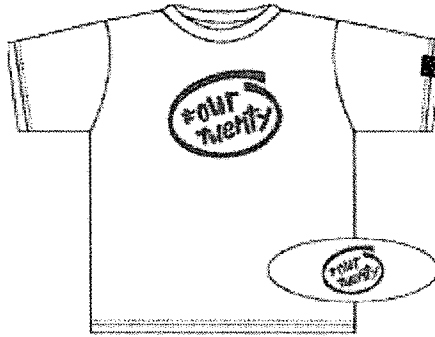
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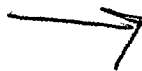
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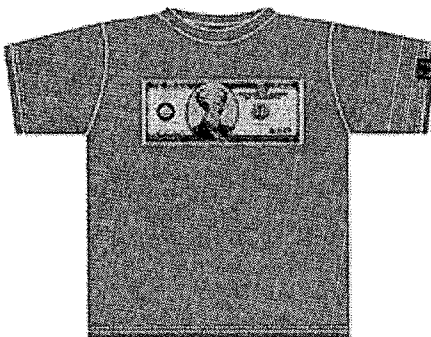
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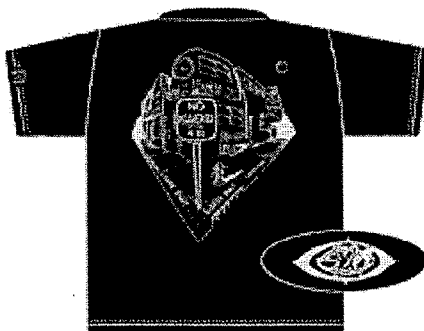
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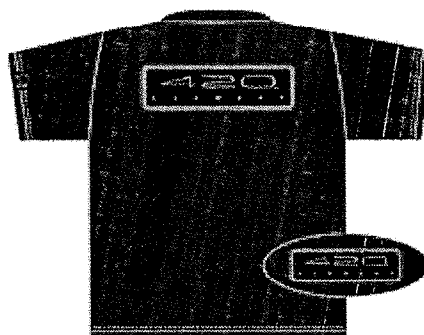
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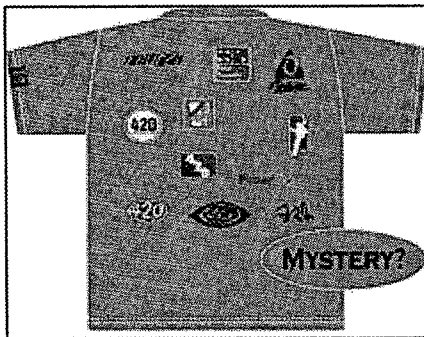
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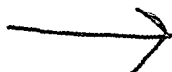
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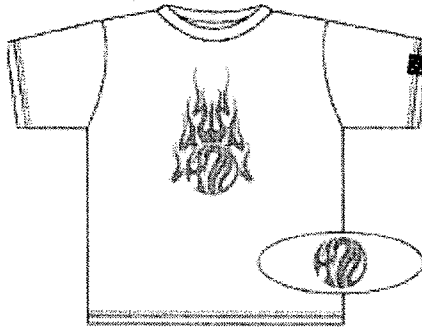
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